

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**CHRISTOPHER J. HARVEY,**

Petitioner,

v.

**UNITED STATES OF AMERICA,**

Respondent.

**Crim Case No. 2:16-cr-182**

**Civil Case No. 2:21-cv-4748**

**Judge James L. Graham**

**Magistrate Judge Chelsey M. Vascura**

**ORDER**

This matter is before the Court for consideration of Magistrate Judge Vascura's September 27, 2021 Report and Recommendation concerning the document captioned "Defendant's Motion to Modify Supervised Release Pursuant to 18 U.S.C. § 3583(e)(2)" (ECF No. 67), which Magistrate Judge Vascura construes as a Motion to Vacate under 28 U.S.C. § 2255, because Petitioner asserts that his original sentence violated *Apprendi v. New Jersey*, 530 U.S. 466, 490 (2001), and there is no indication that he has begun serving the term of supervised release following the Court's July 7, 2017 imposition of a 120-month sentence of incarceration. (ECF No. 68.) Magistrate Judge Vascura determined from the face of the petition that Petitioner is not entitled to relief, as this action is barred by the one-year statute of limitations provided for under 28 U.S.C. § 2255(f) and recommended that Petitioner's Motion be denied.

The Report and Recommendation specifically advised the parties that failure to object to the Report and Recommendation within fourteen (14) days "will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and

Recommendation.” (ECF No. 3 at 27.) The deadline for filing objections to the Report and Recommendation has since expired, and no party has objected to the Report and Recommendation.

The Court agrees with Magistrate Judge Vascura’s Report and Recommendation (ECF No. 68), and it is hereby **ADOPTED**. Petitioner’s Motion (ECF No. 67) is therefore **DENIED**.

**IT IS SO ORDERED.**

/s/ James L. Graham  
JAMES L. GRAHAM  
United States District Judge

DATE: October 20, 2021